

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

RICARDO MARTINEZ,

Plaintiff,

v.

C. PFEIFFER; F. HERRERA,

Defendants.

Case No. 1:22-cv-00126-ADA-HBK

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS

(Doc. No. 10)

Plaintiff Ricardo Martinez (“Plaintiff”) initiated this action as a prisoner, proceeding *pro se*, by filing a civil rights complaint under 42 U.S.C. § 1983. (Doc. No. 1.) The matter was referred to the assigned United States magistrate judge, according to 28 U.S.C. § 636(b)(1)(B).

On February 17, 2022, the magistrate judge issued a findings and recommendations, determining that Plaintiff qualified as a three-striker under 28 U.S.C. § 1915(g). (Doc. No. 10. at 5-6.) The determination effectively precludes Plaintiff from seeking *in forma pauperis* status, requiring him to pay the full filing fee for this action. (*Id.* at 3.) The findings and recommendations further concluded that Plaintiff’s complaint lacked sufficient allegations to satisfy the three strikes rule’s imminent danger exception. (*Id.* at 6-7.) The findings and recommendations were served on the parties and contained notice that any objections were to be filed within fourteen (14) days. (*Id.* at 7.)

On March 4, 2022, Plaintiff filed his objections. (Doc. No. 11.) Plaintiff’s arguments that

1 the three-strikes rule is inapplicable, or in the alternative, that the “imminent danger” exception
2 applies in this case, are unpersuasive. (*Id.* at 2.) Plaintiff asserted that the three-strikes rule may
3 be suspended if a prisoner is seeking *in forma pauperis* status, but he failed to cite to any
4 supporting authority. (*Id.*) Overall, the court finds no basis to overturn the findings and
5 recommendations.

6 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), the Court has conducted a
7 *de novo* review of this case. Having carefully reviewed the entire file, the Court finds the
8 findings and recommendations to be supported by the record and by proper analysis.

9 ACCORDINGLY, it is ORDERED:

- 10 1. The findings and recommendations issued on February 17, 2022 (Doc. No. 10) are
11 adopted in full;
- 12 2. Plaintiff’s motion to proceed *in forma pauperis* (Doc. No. 3) is denied; and
- 13 3. Within **thirty (30) days** following the date of service of this order, Plaintiff shall pay
14 the filing fee in full to proceed with this action. If Plaintiff fails to pay the filing fee
15 within the specified time, this action will be dismissed without prejudice.

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18 IT IS SO ORDERED.

19 Dated: September 7, 2022

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UNITED STATES DISTRICT JUDGE